

AMENDED IN ASSEMBLY SEPTEMBER 3, 2003

AMENDED IN SENATE APRIL 21, 2003

AMENDED IN SENATE MARCH 25, 2003

AMENDED IN SENATE MARCH 17, 2003

SENATE BILL

No. 219

Introduced by Senator Romero
(Coauthors: Senators Soto and Vasconcellos)
~~(Coauthor: Assembly Member Chavez)~~
(Coauthors: Assembly Members Chavez and Lieber)

February 13, 2003

An act to amend Section 17004.7 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 219, as amended, Romero. Public agency: liability: immunity.

Under existing law, a public agency employing peace officers that adopts a written policy on vehicular pursuits complying with specific standards is immune from liability for civil damages for personal injury to, or the death of, any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is, or has been, pursued by a peace officer employed by the public entity in a motor vehicle.

This bill would provide that in a civil action for damages other than by the driver, or his or her ~~accomplices~~ *accomplice*, the civil immunity would ~~only apply if a finding is made that the involved peace officer was complying with the public agency's adopted and implemented written~~

~~policy on vehicular pursuits, unless the plaintiff proves by a preponderance of the evidence (1) that the peace officer involved in the vehicular pursuit did not comply with the public agency's adopted written policy on vehicular pursuits; (2) that the peace officer's failure to comply with that policy was unreasonable under the circumstances; and (3) that the peace officer's failure to comply with the policy was a factor contributing to the plaintiff's injury. The bill would provide that the finding is a question~~ these findings are questions of fact for the trier of fact.

The bill would provide that nothing contained in these provisions affects the application of civil immunity provided to public employees under a related provision of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 ~~(a) Recent gruesome motor vehicle accidents involving police~~
4 ~~pursuits in which very young children are innocent victims, and~~
5 ~~appalling statistics regarding police pursuits throughout the nation~~
6 ~~and especially in California, have generated extensive publicity~~
7 ~~and intense public concern.~~

8 ~~(b)~~
9 (a) According to the California Highway Patrol, there were
10 5,334 police pursuits in the state in the year 2000, and 21 percent
11 of those pursuits resulted in collisions. Ten percent of the collisions
12 caused significant injuries, and 16 resulted in death.

13 ~~(c)~~
14 (b) Los Angeles leads the nation in dangerous police pursuits,
15 and their number increased by more than 30 percent between the
16 years 2000 and 2001. In 2001, there were 781 police pursuits, the
17 equivalent to more than two per day, with 139 of those pursuits
18 involving injuries and six causing death. Sixty percent of the
19 police pursuits initiated by the Los Angeles Police Department
20 involved minor traffic violations, including missing license plates
21 or broken tail lights.

22 (c) Accordingly, it is the intent of the Legislature to protect
23 public safety, including the safety of innocent bystanders and

1 *peace officers, by requiring compliance with pursuit policies*
2 *adopted in accordance with the guidelines set forth in this act.*

3 SEC. 2. Section 17004.7 of the Vehicle Code is amended to
4 read:

5 17004.7. (a) The immunity provided by this section is in
6 addition to any other immunity provided by law. The adoption of
7 a policy by a public agency pursuant to this section is discretionary.

8 (b) (1) A public agency employing peace officers that adopts
9 a written policy on vehicular pursuits complying with subdivision
10 (c) is immune from liability for civil damages for personal injury
11 to, or the death of, any person or damage to property resulting from
12 the collision of a vehicle that is operated by an actual or suspected
13 violator of the law who is, has been, or believes he or she is, or has
14 been, pursued by a peace officer employed by the public entity in
15 a motor vehicle.

16 (2) In a civil action for damages brought by a person, other than
17 the driver of the pursued vehicle or his or her accomplice, the
18 immunity provided by paragraph (1) applies ~~only if a finding is~~
19 ~~made pursuant to subdivision (c) that the involved peace officer in~~
20 ~~a vehicular pursuit complied with the public agency's adopted and~~
21 ~~implemented, written policy on vehicular pursuits., unless the~~
22 *plaintiff proves all of the following by a preponderance of the*
23 *evidence:*

24 (A) *That the peace officer involved in the vehicular pursuit did*
25 *not comply with the public agency's adopted written policy on*
26 *vehicular pursuits.*

27 (B) *That the peace officer's failure to comply with that policy*
28 *was unreasonable under the circumstances.*

29 (C) *That the peace officer's failure to comply with the policy*
30 *was a factor contributing to the plaintiff's injury.*

31 (c) If the public entity has adopted a policy for the safe conduct
32 of vehicular pursuits by peace officers, it shall meet all of the
33 following minimum standards:

34 (1) It provides that, if available, there be supervisory control of
35 the pursuit.

36 (2) It provides procedures for designating the primary pursuit
37 vehicle and for determining the total number of vehicles to be
38 permitted to participate at one time in the pursuit.

39 (3) It provides procedures for coordinating operations with
40 other jurisdictions.

(4) It provides guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

(d) A determination of whether a policy adopted pursuant to subdivision (c) complies with that subdivision is a question of law for the court.

~~(e) A finding of whether a peace officer in a vehicular pursuit complied with the public agency's adopted and implemented, written policy on vehicular pursuits is a question of fact for the trier of fact.~~

(e) All of the following are questions of fact that are required to be determined by the trier of fact:

(1) Whether the peace officer involved in the vehicular pursuit did not comply with the public agency's adopted written policy on vehicular pursuits.

(2) Whether the peace officer's failure to comply with that policy was unreasonable under the circumstances.

(3) Whether the peace officer's failure to comply with the policy was a factor contributing to the plaintiff's injury.

(f) Nothing in this section affects the application of civil immunity provided a public employee under Section 17004.

(g) Nothing in this section prohibits a public entity from establishing a fund to compensate innocent persons injured during law enforcement vehicular pursuits.